

IN THE UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

USCA Case No. 23-12408 & 23-12411
United States District Court, Middle District of Florida
Case No.: 8:23-CV-181

BLAKE WARNER

Appellant

v.

THE SCHOOL BOARD OF HILLSBOROUGH COUNTY, FLORIDA

Defendant/Appellee.

ANSWER BRIEF OF APPELLEE

KRISTEN M. FIORE, B.C.S. (25766)
AKERMAN LLP
201 East Park Avenue, Suite 300
Tallahassee, Florida 32301
Telephone: (850) 224-9634
Facsimile: (850) 222-0103
kristen.fiore@akerman.com

JASON L. MARGOLIN (69881)
AKERMAN LLP
401 East Jackson Street, Suite 1700
Tampa, FL 33602
Telephone: (813) 209-5009
Facsimile: (813) 223-2837
jason.margolin@akerman.com

ATTORNEYS FOR APPELLEE

Blake Warner v. The School Board of Hillsborough County, Florida

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE PURSUANT TO FRAP 26.1 AND 11TH CIR. R. 26.1-1**

Pursuant to F.R.A.P. 26.1 and 11th Cir. R. 26.1-1, Appellee, The School Board of Hillsborough County, Florida by and through its undersigned counsel, hereby discloses the following trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of the appeal, including subsidiaries, conglomerates, affiliates, and parent corporations, including any publicly held corporation that owns 10% or more of the party's stock:

1. Akerman LLP (Attorneys for Appellee)
2. Baker Botts L.L.P. (Attorneys for Appellant)
3. Erickson, Matthew P. (Attorney for Appellant)
4. Fiore, Kristen M. (Attorney for Appellee)
5. First Liberty Institute (Attorneys for Appellant)
6. Flynn, Sean P., U.S. Magistrate Judge (M.D. Fla.)
7. Hacker, David (Attorney for Appellant)
8. Hilderbrand, Matthew M. (Attorney for Appellant)
9. Margolin, Jason L. (Attorney for Appellee)
10. Merryday, Steven D., U.S. Dist. Judge (M.D. Fla.)
11. Moran, Gregg (Attorney for Appellee)
12. Robinson, Benjamin (Attorney for Appellee)

Blake Warner v. The School Board of Hillsborough County, Florida

13. Sneed, Julie, U.S. Magistrate Judge (M.D. Fla.)
14. Streett, Aaron M. (Attorney for Appellant)
15. The School Board of Hillsborough County, Florida (Appellee)
16. Warner, Blake (Appellant)

STATEMENT REGARDING ORAL ARGUMENT

This case does not warrant oral argument. The district court correctly applied this Court's precedent to a straightforward legal issue. Moreover, Appellee, the School Board of Hillsborough County, Florida, takes no position on whether the precedent is incorrect.

TABLE OF CONTENTS

	Page
CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT	C-1
STATEMENT REGARDING ORAL ARGUMENT	i
TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES	iii
STATEMENT OF THE CASE.....	1
ARGUMENT	1
CONCLUSION	2
CERTIFICATE OF COMPLIANCE.....	3
CERTIFICATE OF SERVICE	3

TABLE OF AUTHORITIES

Page

RULES AND REGULATIONS

11th Cir. R. 26.1-1	C-1
Fed. R. App. P. 26.1	C-1
Fed. R. App. P. 32(a)(5).....	3
Fed. R. App. P. 32(a)(6).....	3
Fed. R. App. P. 32(a)(7)(B)	3
Fed. R. App. P. 32(a)(7)(B)(iii)	3

STATEMENT OF THE CASE¹

The Board agrees generally with the procedural history of the underlying cases set forth in Warner's Statement of the Case. *See* [IB 2-6]. However, the Board disputes Warner's assertion that the Board engaged in any "unlawful conduct." [IB 3] That is a mere allegation unsupported and unproven by either fact or law.

ARGUMENT

Curiously, through *seven* attorneys, Warner maintains the district court erred in *sua sponte* denying Warner *pro se* status to raise claims against the Board on behalf of his minor child, and in correspondingly dismissing his minor child's claims for lack of counsel. Without waiving any arguments that multiple grounds justify the dismissal of Warner and his minor child's claims against the Board², the Board maintains the district court correctly applied this Court's precedent. Accordingly, pursuant to this Court's precedent, this Court should affirm the district court's order.

¹ This brief cites to the District Court docket entries by page number (*i.e.*, [Doc. 1 at 1]) and Warner's Initial Brief by page number (*i.e.*, [IB 1]). This brief refers to Appellant Blake Warner as "Warner" and Appellee the School Board of Hillsborough County, Florida as "the Board."

² The Board's motion to dismiss Warner's second amended complaint remains pending in the 181 case. *See* [Docs. 45, 66 (181 Case)]. The Board does not discuss the claims in that motion because they are not of record in this appeal.

Beyond that, the Board takes no position on Warner's assertion that the precedent is wrong—the sole issue Warner raises in this appeal—which the Board agrees is a purely legal issue subject to the Court's *de novo* review. *See* [IB 10].

CONCLUSION

WHEREFORE, the Board requests that this Court affirm the district court's dismissal of Warner's *pro se* claims on behalf of his minor child.

Respectfully submitted,

/s/ Kristen M. Fiore

KRISTEN M. FIORE, B.C.S. (25766)

AKERMAN LLP

201 East Park Avenue, Suite 300

Tallahassee, Florida 32301

Telephone: (850) 224-9634

Facsimile: (850) 222-0103

kristen.fiore@akerman.com

JASON L. MARGOLIN (69881)

AKERMAN LLP

401 East Jackson Street, Suite 1700

Tampa, FL 33602

Telephone: (813) 209-5009

Facsimile: (813) 223-2837

jason.margolin@akerman.com

ATTORNEYS FOR APPELLEE

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitation set forth in FRAP 32(a)(7)(B). This brief contains 341 words, excluding the parts of the brief exempted by FRAP 32(a)(7)(B)(iii). This brief complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6). It has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point Times New Roman font.

/s/ Kristen M. Fiore

KRISTEN M. FIORE, B.C.S.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 25th, 2024, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will automatically send a copy to all counsel of record in this case registered on the CM/ECF system.

/s/ Kristen M. Fiore

KRISTEN M. FIORE, B.C.S.